


**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Ecker *et al.*  
Serial No.: 10/660,122  
Filed: 09/11/03  
Entitled: **Methods for Rapid Identification of Pathogens in Humans and Animals**

Group No.: 1637  
Examiner: Bertagna

**RECORD OF INTERVIEW SUBSTANCE**

**EFS Web Filed**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

<b>CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. § 1.8</b>	
<p>I hereby certify that this correspondence (along with any referred to as being attached or enclosed) is, on the date shown below, being transmitted to the United States Patent and Trademark Office transmitted via the Office electronic filing system in accordance with 37 C.F.R. §1.6(a)(4).</p> <p>Dated: <u>October 28, 2008</u> By:  Laura Eames</p>	

Dear Examiner Bertagna:

The Applicants provide herewith the following interview summary to be made of record with respect to the subject application. The Applicants thank the Examiner for the helpful interview (hereinafter, Interview). The substance of the Interview was as follows:

Participants: Angela Bertagna (Examiner) and Christopher Sappenfield (Attorney)

Date of Interview: August 14, 2008 and August 20, 2008

Interview type: Telephonic

Exhibit shown or demonstration conducted: None

Claims discussed: Claim 30.

Art discussed: None

Agreement with respect to the claims discussed: Examiner agreed to amend claim 30 by replacing the phrase “and/or” with the word “and” via an examiner’s amendment, thereby reverting back to language previously presented in claim 30. Examiner agreed that this

amendment would overcome the 35 U.S.C. § 112 rejections of record in the office action with a notification date of July 9, 2008.

Identification of principal proposed amendments of a substantive nature discussed: As described above, Examiner agreed to amend claim 30 by replacing the phrase “and/or” with the word “and” via an examiner’s amendment.

General thrust of the Applicant’s principal arguments: In regard to claim 30, Applicants explained that the statement that the “base composition identifies the number of A residues, C residues, T residues, G residues, U residues, analogues thereof and mass tag residues thereof in said amplification product” is intended to be *as applicable*, i.e., if those particular recited residues or analogues are present in the given amplification product under consideration. Applicants also explained that the proposed use of the phrase “and/or” was simply intended to further underscore this same intended meaning.

General indication of any other pertinent matters discussed: Applicants pointed out that terminal disclaimers were filed on May 8, 2006 over patents issuing from Application Nos. 10/156,608 (now, U.S. Patent No. 7,108,974) and 10/660,997 (now, U.S. Patent No. 7,226,739). In view of these previously filed terminal disclaimers, Examiner agreed to withdraw the obviousness-type double patenting rejections of record in the office action with a notification date of July 9, 2008. In addition, as requested by the Examiner, Applicants agreed to file a terminal disclaimer over co-pending Application No. 11/331,978.

General results or outcome of the Interview: Examiner agreed to allow the pending claims as amended in the examiner’s amendment.

**CONCLUSION**

If the Examiner believes that further discussion would be helpful, please call the undersigned at the telephone number indicated below.

Dated: October 28, 2008

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